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REMARKS

Claim 1 has been amended to correct a typographical error. Upon entry of the above amendments, claims 1-5, 8, 9 and 21 will remain pending and under consideration in the above-identified application.

Applicant gratefully acknowledges that the previous grounds for rejection have been withdrawn, but submits that the new ground for rejection based on the teachings of Yamada et al. (United States Patent Application Publication No. 2001/0050717) in view of Bauer et al. (U.S. Patent No. 6,621,616) is improper and should be withdrawn.

Rejections Under 35 U.S.C. §103

Claims 1, 8 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamada et al. (United States Patent Application Publication No. 2001/0050717) in view of Bauer et al. (U.S. Patent No. 6,621,616).

The Examiner has taken the position that Yamada et al. disclose substantially every feature of the claimed invention except that "Yamada et al. does not explicitly teach that the optically transmissive medium acts as an environmental seal for the face of the integrated circuit facing the substrate." According to the Examiner, "Bauer et al. teaches that an optically transmissive medium (transparent curable resin, 154) filling the space between the integrated circuit (22) and the optically transmissive substrate (140) acts as an environmental seal for the face of the integrated circuit facing the substrate (See column 14, lines 4-12."

The Examiner has stated that it is his position that "it would have been obvious to a person having ordinary skill in the art at the time of the invention to have the optically transmissive medium taught by Yamada et al. comprise a transparent curable resin as taught by Bauer et al. which acts as an environmental seal for the face of the integrated circuit facing the substrate for the benefit of maintaining the compact nature and ease of manufacture of the optical sensor circuit assembly while better protecting the optical sensor (Bauer et al., column 2, lines 28-32)."

The alleged modification of the CMOS camera system disclosed by Yamada et al. based on the disclosed electrochromic elements and optical sensors of Bauer et al. would not have been obvious to the person of ordinary skill in the art because such modification would be

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contrary to the teachings of Yamada et al. Further, the structure and function of the electrochromic elements and optical sensors of Bauer et al. are significantly different from those of the CMOS camera system of Yamada et al. so as to discourage, rather than suggest incorporation of features from Bauer et al. into the structure described by Yamada et al.

In each and every aspect of the invention of Yamada et al. (see paragraphs 0010, 0011 and 0012 of Yamada et al.), an image pick-up opening formed between a wiring board and a lens unit is a required feature. Further, in each of the 19 embodiments described in the specification, an image pick-up opening is shown and described. Similarly, each of the claims requires a lens unit including a wiring board having an image pick-up opening formed therein. Thus, the image pick-up opening is a fundamental and essential feature of the invention described by Yamada et al.

If, as suggested by the Examiner, the image pick-up opening of Yamada et al. is filled with a transparent curable resin, such as the transparent curable resin disclosed by Bauer et al., the resulting structure would no longer have the required and essential image pick-up opening of Yamada et al. It would not have been obvious to a person of ordinary skill in the art to make such modification that is contrary to the requirements of Yamada et al., especially in view of the fact that the Bauer et al. reference does not disclose or clearly pertain to the CMOS camera systems described by Yamada et al.

In view of the fact that filling the image pick-up opening of Yamada et al. with an optically transmissive medium, as required by the pending claims, would be completely contrary to the teachings of Yamada et al., it is respectfully submitted that the rejection is erroneous and should be withdrawn.

Claims 2-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamada et al. in view of Bauer et al. as applied to claim 1 and further in view of Melman et al. (U.S. Patent No. 6,564,018).

It is respectfully submitted that dependent claims 2-5 are allowable for at least the reasons generally set forth above with respect to independent claim 1.

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Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yamada et al. in view of Bauer et al. as applied to claim 1 and further in view of Wolterink et al. (United States Patent Application Publication No. 2006/0044450).

Dependent claim 21 is allowable for at least the reasons generally set forth above with respect to independent claim 1.

CONCLUSION

In view of the above amendment and remarks, it is submitted that the application is in condition for allowance and notice of the same is requested.

Respectfully submitted,

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